

This Page Is Inserted by IFW Operations
and is not a part of the Official Record

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

IMAGES ARE BEST AVAILABLE COPY.

**As rescanning documents *will not* correct images,
please do not report the images to the
Image Problem Mailbox.**

Remarks

I. Status of the Claims

Claims 1-132 were previously canceled without prejudice or disclaimer, and claims 133-139 and 147-153 are canceled herein without prejudice or disclaimer.

Claims 140-146 are the only pending claims.

II. Petition to Make Special

The present cancellation of claims 133-139 and 147-153 in no way affects the Petition to Make Special filed in the instant application on February 27, 2004 ("Petition"). Specifically, Applicant notes that the basis for the Petition was Applicant's knowledge of a product currently on the market which Applicant believes would infringe the claims of the instant application, as amended in the Second Preliminary Amendment filed with the Petition on February 27, 2004. Applicant points out that in support of this belief, a Claim Chart was attached as Exhibit C to the Petition, wherein a rigid comparison of the proposed infringing product to claim 146 of the application was made. Applicant notes that since claim 146 has not been canceled or amended by this paper, the comparison of the product with the claim, and likewise Applicant's basis for requesting the Petition, remains unaffected.

III. Interview

Applicant would like to thank the Examiner for the courtesies extended to her personal representatives, Tom Irving, Thalia Warnement, and Michelle O'Brien, at the March 23, 2004, personal interview.

IV. Full Story™ Lush lash and MagnaScopic® Mascara Products

As referenced in the Information Disclosure Statement filed on February 27, 2004, and as discussed at the March 23, 2004, personal interview, Applicant is aware of the ingredients of both the Origin's Full Story™ Lush lash and the Estée Lauder MagnaScopic® mascara products. See Exhibit 1 for Full Story™ Lush lash packaging; see Exhibit 2 for MagnaScopic® packaging. However, to the best of Applicant's representatives' knowledge, these two products were launched in 2003, and thus do not constitute prior art with respect to the present application.


V. Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully requests consideration of the application and timely allowance of the pending claims.

Please grant any extensions of time required to enter this Third Preliminary Amendment and charge any fee due in connection with the filing of this Third Preliminary Amendment to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER, L.L.P.

By: 
Michelle E. O'Brien
Reg. No. 46,203

Dated: April 1, 2004

Attachments:

Exhibit 1 - Origin's Full Story™ Lush lash mascara packaging

Exhibit 2 - Estée Lauder's MagnaScopic® mascara packaging

EXHIBIT 1

Origin's Full Story™ Lush lash mascara packaging

Purchased 16 Jan 04
Origins Store Paramus, NJ

The Origins Commitment Preservation of earth, animal, environment.
Le pacte Origins: Préservation de la nature, des animaux, de l'environnement.

This carton was made from 20% post-consumer recycled materials.
Cet étui est fait de 20% de matériaux de récupération recyclés.

ORIGINS

Full Story™
Lush-lash mascara/Mascara épaississant
.27 fl. oz./oz.liq./8 ml e



Ingredients: aqueous (water, aqua, purificata, purified) infusions; rosa damascena (rose), anthemis nobilis (chamomile), lododectane, ethylenediamine/stearyl dimethyl-bis copolymer, kaolin, ammonium stearate, stearamide, inea-stearate, polyorbate 20, polyurethane-1, silica, sorbitan tristearate, pvp, panthenol, cocopheryl acetate, glycerin, tocopherol, butylene glycol, diglycol/dimethylsiloxane copolymer, stearic acid, saccharin, sodium gum, magnesium aluminum silicate, hydroxyethylcellulose, glyceryl stearate, peg-100 stearate, hexadecyl pentastearate, hydroxyhydroxymethyl, citric acid, disodium edta, benzyl alcohol, potassium sorbate, sorbic acid, chlorophenol, phenoxymethyl, methylparaben, ethylparaben, butylparaben, isobutylparaben, 1,2-phenylene glycol, titanium dioxide (d 77891), iron oxides (d 77491, d 77492, d 77493), ferrocyanide (d 77007), blue 1 lake (d 42090), titanium oxychloride (d 77163), chromium hydroxide green (d 77289), chromium oxide greens (d 77288), yellow 5 lake (d 19140) <ln23617>

©Origins Nat. Res., Dist. New York, NY 10022 London WJK 380 • Paris • Munich Made in Canada #061X www.origins.com

Achtung! Falls Augenirritationen auftreten, nicht mehr anwenden.

Testé ophtalmologiquement.
Attention! En cas d'irritation de l'œil, suspendre l'utilisation et consulter immédiatement un ophtalmologiste.

Caution! In case of eye irritation, discontinue use and see your ophthalmologist at once.

Full Story™ Lush-lash mascara/La Totale Mascara épaississant



Made in Canada

EXHIBIT 2

Estée Lauder's MagnaScopic[®] mascara packaging

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

2. Once the problem is identified, the next step is to define the objectives and goals of the project. This helps to clarify what needs to be achieved and provides a clear direction for the team.

3. The third step is to develop a plan or strategy to address the problem. This involves breaking down the problem into smaller, manageable tasks and determining the resources needed to complete each task.

4. The fourth step is to implement the plan. This involves putting the strategy into action and monitoring progress regularly to ensure that the project is on track.

5. The final step is to evaluate the results of the project. This involves assessing whether the objectives have been met and identifying any lessons learned for future projects.

MagnaScope
01-888-8888

ATTENZIONE: In caso di irritazioni, infezioni o streptolaurite sospendere l'uso di tutti i cosmetici per occhi e consultare l'oculista. Testato oftalmologicamente. Privo di fragranza.

PRECAUTION: En caso de irritación, infección o picon suspender el uso de todo cosmético de ojos y consulte al oftalmólogo. Probado oftalmológicamente. Sin fragancia.



QUESTÉ LAUDER, DIST. NEW YORK, N.Y. 10022 LON 90°N W 1K 3RQ 1T4F www.asteelauder.com

[illegible]

MagnaScopic
Maximum Volume
Mascara
Mascara
volume intense
NET WT.
.3 OZ./9ml e

1T4F-
01-
0113



ESTÉE LAUDER

Call 1-800-441-4444 for more information and see your ophthalmologist at once.

CAUTION: In case of eye irritation, infection or scratches, discontinue use of all eye cosmetics and see your ophthalmologist.

PRECAUTION D'EMPLOI : En cas d'irritation des yeux, d'infection ou de démangeaisons, interrompre l'utilisation de tout produit cosmétique pour les yeux.

et consulter votre ophtalmologue au plus tôt. Soumis à des tests ophtalmologiques, votre produit...

ATTENTION : Bei Auftreten von Irritationen oder Infektionen am Auge Anwendung jeglicher kosmetischer Produkte für die Augenpartie absetzen und einen

ACHTUNG: Bei Verdacht auf eine Infektion des Auges oder des Augensackes ist ein Arzt aufsuchen. Augenärztlich getestet. Duofrei.